



HERMOSA BEACH POLICE DEPARTMENT

O3.09 DIGITAL AUDIO/VIDEO RECORDING

**Effective 10/27/2009
Updated**

PURPOSE

To establish a departmental policy for the use of audio/video recorders during public contacts by designated employees of the Department. The recording of citizen contacts can be beneficial to the public and the department for two primary reasons. First, recorded evidence obtained from victims, witnesses, and/or suspects can be critical because only with accurate information can the guilty be prosecuted and the innocent exonerated. Second, recorded evidence can protect the department from false accusations of misconduct or confirm the occurrence of misconduct so that appropriate corrective action can be taken.

POLICY

It shall be the policy of the Department for designated employees to record citizen contacts, to include but not be limited to; traffic stops, suspect interviews, witness interviews, victim interviews and any other citizen contacts in response to a call for service or when investigating criminal activity. [This can include video recordings when available.]

TRAINING

Officers shall not use digital audio/video recording devices unless they have successfully completed training in the proper use of such equipment.

- A. Training provisions will include classroom discussion, field application and a supervisory evaluation. The training will consist of a review of the proper function and use of the recording devices, recommended times to employ the system, and departmental policy and procedures as they pertain to the system.
- B. A written record of the training provided will be completed by the trainer and maintained in the officer's training file.

PROCEDURE

- A. All sworn officers will be issued a portable audio recording device. Once issued, each officer will be responsible for the appropriate care and operation of the device. The Department will provide all maintenance, batteries, belt holders, and any other accessories necessary for the standard operation of the device.
 - 1. Broken or malfunctioning recorders and accessories are to be reported to the immediate supervisor as soon as possible.

2. The officer shall complete and submit a memorandum to the Watch Commander detailing the type of problem(s). The Watch Commander will issue the officer a replacement recorder.
- B. Sworn uniformed personnel working any uniform or investigative assignment, as their primary function, are required to record all citizen contacts while conducting law enforcement duties. Citizen contact includes interviews with victims, witnesses and suspects in criminal investigations or calls for police services that would bring an officer into contact with the public. Supervisors and officers shall record a complainant's statement when receiving a complaint of officer misconduct. This section does not supersede paragraph F below. Investigative personnel conducting follow-up investigations outside the department will follow the same rules as uniformed officers when obtaining victim, witness, or suspect statements. When more than one officer is involved in the citizen contact, all officers shall record the contact.
- C. Officers shall start the recorders just prior to the citizen contact and record the entire contact, except for permissible interruptions as noted below. Whenever a direct contact is interrupted, (officer returning to unit to issue a citation, run records check, conferring with other officers to discuss tactics, and similar events) the recorder may be stopped and restarted upon return. Prior to turning off the recorder, the officer shall record the reason for the interruption.
- D. Citizen contacts made during casual encounters not involving law enforcement activity need not be recorded.
- E. Officers should not jeopardize their safety, or the safety of others, in order to operate their recorders. Officers suddenly confronted with an unexpected event should react to any potential threats and protect themselves and others first before they attempt to activate their recorders.
- F. This policy is intended to allow recording of citizen contacts only. Nothing in this policy exempts any officer from complying with California Penal Code section 632, which, in part, prohibits any person who intentionally and without the consent of all parties to a confidential communication, from recording such communication. Thus, the recorders are not to be used for personnel matters or the recording of contacts with supervisors, or other members of the Department. Employees shall not secretly record any conversation with any other City employee. Officers are only permitted to record citizen contacts with Department-issued recorders and shall not record such contacts with any personal equipment.
- G. If an employee accidentally records an unauthorized conversation with other Department employees, that officer shall notify the recorded person(s) and the on-duty Watch Commander, who will appropriately dispose of the recording.
- H. Operation of audio/video equipment installed/attached to police vehicles will be conducted using the applicable sections of this policy when possible considering technical limitations.
- I. The intent of the recorder program is to collect a daily record of citizen contacts by officers to be utilized in criminal investigations, the investigation of personnel complaints, and other police operations. The review and extraction of any

recording from the database of recordings will be for use only in a criminal investigation, the investigation of personnel complaints, or other complaints of misconduct. Except as specifically provided below, random auditing of the database of recordings by any Department personnel shall not be conducted. It is a violation of this policy for any employee to randomly review the recordings in order to initiate disciplinary actions regarding violations of policy and procedures. In the event that a recording is reviewed in error, for instance; if while searching for a recording of a specific date and time, an unrelated recording of a similar date and time is reviewed, the Department shall not initiate a new personnel complaint based on mere violations of Department Policy, however if there are Violations of Law, the Department may initiate an investigation and open a complaint if necessary.

Recordings shall not be used for the auditing of routine activity not related to criminal investigations or allegations of misconduct. Recording shall not be reviewed for employee evaluation purposes.

The exception to this paragraph "I" shall be in cases where an officer has been disciplined on two occasions for failing to record citizen contact within the one year inclusionary period. In this event, following the second violation of this policy, the Chief of Police may, at his discretion, authorize the officer's supervisor to randomly select one call per shift to determine if the officer is complying with this policy of recording citizen contacts. The audit shall be for a period of time to be determined by the Chief of Police, not to exceed sixty days. This audit may review past calls for service for training purposes, however an officer shall not be retroactively disciplined for violations found prior to the audit.

The purpose of this random selection will be to determine if the officer is following this policy, and not for any other purpose.

The findings by the supervisor may be used to discipline the officer for failure to comply with section 800.47. Officers will be notified in writing when such an audit is being conducted.

[For the purposes of this policy, audio/video recording devices include all station cameras and microphones.]

- J. When a recording must be reviewed and/or a duplicate copy of the recording must be made for a criminal investigation, personnel complaint, or other misconduct investigation, the employee requesting the recording must submit a written request, via email or inter-office memorandum, to the Court Liaison. The Court Liaison will document the request on the Discovery Motion Log. In the case of a criminal investigation, the Detective Sergeant or his designee has the authority to authorize the review. In the instance of a personnel complaint or other misconduct investigation, authorization must be obtained from the Chief of Police, or when not available, the Captain. Personnel complaints may include instances of defense of civil actions.
- K. If an officer is to be interviewed in the course of a personnel complaint, the involved officer(s), including witness officers, shall be allowed, prior to being interviewed, to review a copy of the recording of the incident of his/her

involvement. Officers will be allowed to review recordings for the purposes of preparing reports and refreshing their recollection for court testimony.

- L. All of the respective rights and obligations provided in section 800.47 are in no way intended to replace or effectively relieve the city and/or its designees from adhering to the Police Officers Bill of Rights; Government Code 3300-3311.

Storage and Identification of Recordings – Evidence

The department will maintain a storage device for all recordings made by Officers. Officers shall download the contents of the recorder on a daily basis. The Department will retain the recordings in accordance with state law and purge recordings in compliance with same. In general, Government Code Section 6200 and 34090 allows purging after two (2) years. Exceptions to this purge criteria shall be recordings associated with civil or criminal cases that have yet to be adjudicated, and sustained internal affairs investigations.

All recordings will remain the property of the Hermosa Beach Police Department and shall not be disseminated outside the Department unless submitted to the District Attorney's Office for prosecution, as a result of subpoena from a legal court, or by direction of the Chief of Police.

APPROVED:



Greg Savelli
Chief of Police